

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

DIONDRAE WILLIAMS, ET AL,)	
Plaintiffs,)	
vs.)	Civil Action No. 5:17-cv-00089-RWS
)	
ROONEY TRUCKING, INC., ET AL)	
Defendant.)	CONSOLIDATED CASE

REPORT AND RECOMMENDATION OF THE SPECIAL MASTER

On March 23, 2017 at 11:39 p.m. a school bus carrying students from Mt. Pleasant ISD was struck head-on by a Rooney Trucking, Inc. The collision resulted in two deaths and thirty-six others being injured. Rooney Trucking, Inc. was only covered by a \$1,000,000.00 insurance policy through Acuity, a Mutual Insurance Company. Thereafter Acuity filed an interpleader action pursuant to Rule 22 of the Federal Rules of Civil Procedure seeking a determination by the Court as to the proper payment and distribution of the insurance proceeds payable under its policy issued to Rooney Trucking, Inc.

On October 13, 2017 the Court notified the parties of its intent to appoint a Special Master pursuant to Rule 53 of the Federal Rules of Civil Procedure to assist the Court. (Dkt. No. 95). Thereafter, on November 28, 2017 the Court entered an order appointing John Mercy as the Special Master. (Dkt. No. 110). The Special Master was tasked with, among other things, analyzing submissions from each party to provide recommendations to the parties and the Court regarding the allocation of the insurance sum for each Claimant. The Special Master thereafter issued a Claims Procedure Guidelines and Scheduling Order. (Dkt. 113). The Claims Procedure required the parties to submit Claims Information Sheets and associated documents by February 15, 2018.

Of the thirty-eight possible Claimants, twenty-five claims were filed under the Claims Procedure. Sixteen Claimants did not file Claim Information Sheets.

A review of the Claims Information Sheets and associated documents submitted to the Special Master reveals that, in addition to one fatality, the injuries included significant multiple traumas, lacerations, herniations, broken bones, rib fractures, concussions, torn ligaments, fractures of facial bones, displacements, and sprains and contusions. The Special Master reviewed the twenty-five Claim Information Sheets, and approximately 4300 pages of medical records. In consideration of all the factors in this case, and review of Claims Information Sheets and medical records provided by the Claimants, the Special Master makes the following recommendation as to the division of the interpled insurance proceeds:

Party	Claimant	Award	Percentage
Mt. Pleasant ISD Workers Compensation Carrier	David Bagley	\$10,000.00	1%
Shirley Beard	Shirley Beard	0	0%
Anterius Beard, Sr.	Anterius Beard, Sr.	\$125,000.00	12.5%
Anterius Beard, Sr. as Next Friend	TB	\$50,000.00	5%
Anterius Beard, Sr. as Next Friend	TB	\$50,000.00	5%
Mt. Pleasant ISD Workers Compensation Carrier	Angelica Beard	\$45,000.00 conditioned upon workers compensation carrier's agreement to waive all claims for credit against future payments to Anterius Beard, TB and TB	4.5%
Carl Van Bowen	Carl Van Bowen and wife, Charla Bowen	\$320,000.00	32%

Lori Brinkley and Reginald Brinkley, Sr.	RB	0	0%
Fructuoso Martinez, as Next Friend	CC	\$1,000.00	0.1%
Tom and Leachia Craft as Power of Attorney	DC	\$13,500.00	1.35%
LeKesia and Elywin Evans as Power of Attorney	JE	\$11,000.00	1.1%
Deanna Williams as Next Friend	DG	\$5,000.00	0.5%
Devora Hernandez as Next Friend	IH	\$2,000.00	0.2%
Lisa Bassinger as Next Friend	HH	\$500.00	0.05%
George Lias as Next Friend	GL	\$2,000.00	0.2%
Alma Delia Atrizco-Alvarez as Next Friend	FM	\$15,000.00	1.5%
Evodia Macareno as Next Friend	JM	\$30,000.00	3.0%
Stephanie Scott as Next Friend	TM	\$1,000.00	0.1%
Angelica and Silverio Rios as Power of Attorney	AR	\$11,000.00	1.1%
Mt. Pleasant Workers Compensation Carrier	RS	0	0%
Dane Stanage	Dane Stanage	\$240,000.00	24%
Mt. Pleasant Workers Compensation Carrier	Dane Stanage	\$50,000.00 conditioned upon workers compensation carrier's agreement to waive all claims for additional amounts	5%

Tonya Turner as Next Friend	DT	\$8,000.00	0.8%
Reyna Rameriz	HV	\$5,000.00	0.5%
Joyce Wilson as Next Friend	AW	\$5,000.00	0.5%

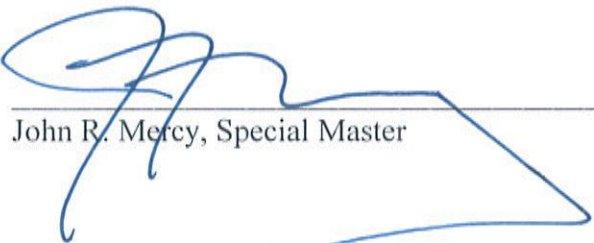
Within twenty-one days of the filing of this Report and Recommendation a Claimant may reject the Special Master's recommendation. The party shall notify the Court of such rejection by filing a notice on the ECF system. Upon such rejection the Special Master is authorized to reallocate the rejected sum amongst the remaining Claimants as appropriate. If a party rejects the Special Master's recommendation, the Special Master's recommendation with respect to that party has no effect, and the Court will take no action on that recommendation.

Alternatively, a Claimant may accept the Special Master's recommendation. Upon such acceptance the claimant and Defendant, Rooney Trucking, Inc., shall meet and confer regarding the terms of their acceptance, including terms related to releases or liability. If a Claimant accepts the Special Master's recommendation within twenty-one days of the filing of the recommendation, it shall file a notice with the Court indicating acceptance of the recommendation and whether the controversy between Claimant and Rooney has been resolved in whole or in part.

Pursuant to Rule 53(f), a party may also file with the Court an objection to the Special Master's Report and Recommendation within twenty-one days of the report being electronically filed. Any record necessary for the Court to review the Special Master's Report and Recommendation shall be submitted with the party's objection or motion. To the extent the Special Master enters any recommendation regarding an issue of fact or law the Court shall review such issue *de novo* if any party timely objects pursuant to the rules and within the twenty-one day time period set forth in the Court's order. (Dkt. No. 110). *See* Rule 53(f)(3)-(5).

The Special Master shall reduce any recommendation to writing and file it electronically on the case docket via Electronic Case Filing ("ECF"). Pursuant to Rule 53(f)(1), in acting on an order, report, or recommendation of the Special Master, the Court shall afford the parties an opportunity to present their positions and, in its discretion, may receive evidence, and may adopt or affirm, modify, wholly or partly reject or reverse, resubmit to the Special Master with instructions, or make any further orders it deems appropriate.

For the foregoing reasons, the Special Master recommends that the Court issue orders and opinions consistent with the foregoing Report and Recommendations.



John R. Mercy, Special Master

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on this 2nd day of April, 2018. As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A).



John R. Mercy